IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2374 OF 2004

Shree Andheri Leuva Patidar Pragti Mandal. .. .. Petitioner

v/s.

Maharashtra Housing and Area Development Authority & ors. .. Respondents

Mr.Vineet Naik i/by Mr.Bharat Joshi for petitioner.

Mr.H.W. Mattos, AGP for respondents.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 18TH JANUARY 2005

P.C. :

1. Heard Mr.Naik with Mr.Joshi for the petitioner. Mr.Mattos, AGP appears for the respondents.

2. Mr.Naik does not press this petition any more. The petition is, therefore, disposed of as not pressed.

3. Mr.Naik, however, states that the petitioner would like to get the refund of the amount, which it has deposited with respondent

No.2-Board. The amount deposited is Rs.30,30,000/- by 2nd of January 2003. The petitioner-Institution is no longer claiming the concerned plots and, therefore, it would like this amount to be refunded. Mr.Mattos, learned AGP appearing for the respondents, states that the respondents have no objection to refund the amount. He, however, states that there is no provision for payment of any interest. Mr.Mattos as well as Mr.Naik leave it to the Court to pass an appropriate order with respect to interest.

4. Accordingly, although the petition is disposed of, the respondents shall refund the amount of Rs.30,30,000/- to the petitioner with interest at the rate of 6% from 2nd January 2003 until the amount is refunded. We direct the respondents to refund the amount within six weeks and in any case, by end of February 2005.

5. The petitioner has also deposited an amount of Rs.1,50,000/- by way of earnest money. Under Clause-7 of the terms of tender, the respondents are entitled to forfeit 10% of the earnest money in the event of failure on the part of the successor-bidder.

6. In the circumstances, the respondents shall refund an amount of Rs.1,35,000/- of the earnest money over and above the above-mentioned amount again with 6% interest which shall be refunded by end of February 2005. The respondents will take necessary steps on the petitioner furnishing a certified copy of this order.

7. In view of the above, the petition is disposed of.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)